

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK**

In re:

Chapter 7

**Colleen Anne Van Epps and
Richard Alan Van Epps**

Debtors.

Motion

Bk. No: 2-17-21044-PRW

MOTION TO AVOID LIENS

**To: Honorable Paul R. Warren
United States Bankruptcy Judge**

The debtor, Richard Alan Van Epps, by his attorneys, the Legal Aid Society of Rochester, NY, respectfully represents:

1. Debtors filed a voluntary petition under Chapter 7 of the Bankruptcy Code on September 28, 2017.
2. Debtor Richard Alan Van Epps—sole surviving debtor—now brings this motion under 11 U.S.C. § 522(f) to avoid a judicial lien against his homestead located at 127 Westwood Drive, Rochester, NY 14616, deeded to the debtors on September 16, 2006, and recorded on October 3, 2006 in the Monroe County Clerk's office, in Liber 10365 of Deeds at Page 252. (Exhibit B).
3. The judgment lien totals \$2,662.77. (Exhibit C).
4. The fair market value of the property at the time of filing was \$73,000. Debtors obtained an appraisal prepared on August 14, 2017, and submitted that appraisal to the Chapter 7 Trustee before the §341 First Meeting of Creditors. (Exhibit D).
5. Debtor Colleen Anne Van Epps passed away in February 2020.

Judgment Liens

6. The following judgment was taken against the Debtors and remains a judgment lien against the residence in the Monroe County Clerk's office:

<u>Holder</u>	<u>Docket Date</u>	<u>Amount</u>	<u>Index No.</u>
Capital One Bank USA NA	06/26/2017	\$2,662.77	17-3076

7. The lien totals \$2,662.77. It is an avoidable judicial lien within the purview of 11 U.S.C § 522(f) because it impairs the Debtors' interest in the exempt portion of their residence.
8. Schedule A lists the residence's value at \$73,000. Schedule D lists two secured debts, one secured by the homestead and one by a vehicle. The following debt is secured by the Debtors' residence:
- a. Seterus, Inc, with a claim of \$70,510.00.
9. At the time of filing, the Debtors had \$2,690.00 in equity in the residence. Schedule C claims a homestead exemption pursuant to 11 U.S.C § 522(d)(1), the amount of which exceeded the Debtor's equity in the residence. (See Exhibit A)

WHEREFORE, the Debtor requests an Order cancelling and avoiding the judicial lien listed in Paragraph 6 in its entirety, and directing the Monroe County Clerk's Office to cancel such judgments as of record and for such other and further relief as is just.

Dated: October 5, 2020

/s/ Michael A. Furlano
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